

ASSEMBLY BILL

No. 799

Introduced by Assembly Member Leno

February 18, 2005

An act to add Part 5.6 (commencing with Section 11160) to Division 2 of the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 799, as introduced, Leno. Local vehicle license fee: San Francisco.

Existing law authorizes certain counties to impose a local vehicle license fee of \$10 per year, as provided, for the privilege of operating specified vehicles on public roads in the county. Existing law requires a county imposing this fee to contract with the Department of Motor Vehicles to collect and administer the fee, as specified.

This bill would authorize the City and County of San Francisco to impose a local vehicle license fee for specified vehicles if certain conditions, including approval by local voters, are met. This bill also would require the city and county to contract with the department to collect and administer the fee, as provided.

The Personal Income Tax Law and the Corporation Tax Law authorize various deductions against the income that is otherwise subject to tax under those laws, including a deduction for local taxes that were paid or incurred by a taxpayer. Existing property tax law requires, for the 2004–05 fiscal year and for each fiscal year thereafter, that each city, county, and city and county receive a vehicle license fee adjustment amount, as defined.

This bill would require the Franchise Tax Board to notify the Controller of any revenue losses to the state resulting from taxpayers

deducting, for purposes of the Personal Income Tax Law and the Corporation Tax Law, the local vehicle license fees authorized by this bill. This bill also would reduce the vehicle license fee adjustment amount of the City and County of San Francisco by an amount equal to these reported losses and the board's administrative costs in making this report.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 5.6 (commencing with Section 11160) is
2 added to Division 2 of the Revenue and Taxation Code, to read:

3
4 PART 5.6. CITY AND COUNTY OF SAN FRANCISCO
5 VEHICLE LICENSE FEE LAW
6

7 11160. This part is applicable only to the City and County of
8 San Francisco.

9 11161. For purposes of this part:

10 (a) "Board of supervisors" means the Board of Supervisors of
11 the City and County of San Francisco.

12 (b) "City and county" means the City and County of San
13 Francisco.

14 (c) "Department" means the Department of Motor Vehicles.

15 (d) "Market value" has the same meaning and shall be
16 determined in the same manner as required under Part 5
17 (commencing with Section 10701) of Division 2.

18 (e) "Person" includes an individual, a firm, a corporation, a
19 limited liability company, a partnership, or any other legal entity.

20 (f) "Resident of the city and county" means a person whose
21 address, as reflected in department registration records, is in the
22 city and county, but does not include a person that establishes to
23 the satisfaction of the department that the person's place of
24 residence is elsewhere.

25 11162. Notwithstanding Section 10758, the board of
26 supervisors may, by ordinance, impose a local vehicle license fee
27 for general revenue purposes pursuant to this part, if all of the
28 following conditions are met:

1 (a) The ordinance proposing the fee complies with both of the
2 following:

3 (1) Section 11163.

4 (2) Article 3.7 (commencing with Section 53720) of Chapter 4
5 of Division 2 of Title 5 of the Government Code.

6 (b) The ordinance proposing the fee is approved by two-thirds
7 of all members of the board of supervisors.

8 (c) The ordinance proposing the fee is submitted to the
9 electorate of the city and county and is approved by a majority
10 vote of the voters voting on the ordinance.

11 (d) The board of supervisors transmits to the department and
12 the Franchise Tax Board a certified copy of the ordinance
13 imposing that fee immediately after the results of the election
14 described in subdivision (c) are certified.

15 11163. An ordinance imposing a local vehicle license fee
16 pursuant to this part shall contain provisions in substance as
17 follows:

18 (a) A provision that the fee is imposed for the privilege of a
19 resident of the city and county to operate upon the public
20 highways in the city and county a vehicle or trailer coach, the
21 registrant of which is subject to tax under Part 5 (commencing
22 with Section 10701).

23 (b) (1) A provision establishing the annual amount of the fee
24 at a rate that equals the difference between the following two
25 rates:

26 (A) Two percent of the market value of the vehicle or trailer
27 coach.

28 (B) The rate, including any offset to that rate, set forth in Part
29 5 (commencing with Section 10701), for a vehicle or trailer
30 coach.

31 (2) A provision that the rate established under the provision
32 described in paragraph (1) is subject to both of the following:

33 (A) That the rate may not exceed 2 percent of the market value
34 of the vehicle or trailer coach.

35 (B) That any adjustment that is required to be made to the rate
36 because of a change in the rate, or any offset to that rate, set forth
37 in Part 5 (commencing with Section 10701), shall not take effect
38 until the first day of the first fiscal year that follows the fiscal
39 year in which the change to the rate or offset set forth in that part
40 became operative.

1 (c) A provision that the fee will be imposed beginning on the
2 first January 1 following voter approval of the ordinance.

3 (d) Provisions identical to those contained in Part 5
4 (commencing with Section 10701), insofar as they relate to
5 vehicle license fees and are applicable, except that the name of
6 the city and county as the taxing agency shall be substituted for
7 that of the state.

8 (e) A provision that all amendments, subsequent to the
9 effective date of the local vehicle license fee ordinance, to Part 5
10 (commencing with Section 10701) relating to vehicle license fees
11 and not inconsistent with this part, shall automatically be
12 incorporated into the local vehicle license fee ordinance.

13 (f) A provision that requires the city and county to contract
14 with the department, which contract shall contain provisions in
15 substance as follows:

16 (1) A requirement that the department perform all functions
17 incident to the administration and collection of the local vehicle
18 license fee.

19 (2) A provision specifying the manner in which refunds to
20 licensees pursuant to Part 5 (commencing with Section 10701),
21 as incorporated in the local vehicle license fee ordinance
22 pursuant to subdivisions (c) and (d), will be made and
23 administered.

24 11164. The department shall do all of the following:

25 (a) Collect the local vehicle license fee pursuant to a contract
26 with the city and county.

27 (b) Deduct its costs in administering the local vehicle license
28 fee from the fees collected under subdivision (a).

29 (c) Transmit revenues derived from the fees collected under
30 subdivision (a) to the city and county as promptly as feasible.

31 (d) Report to the Franchise Tax Board, on or before the first
32 day of each month that follows a month in which a tax was
33 imposed under this part, the names, addresses, and the amount
34 paid by each person or entity that paid a tax imposed under this
35 part in the prior month, and, if available to the department, the
36 taxpayer identification numbers or social security numbers of
37 these same persons and entities.

38 11165. This part shall not be construed to supplant any
39 moneys that the state apportions to the City and County of San
40 Francisco, including, but not limited to, moneys apportioned to

1 that entity under the Vehicle License Fee Law set forth in Part 5
2 (commencing with Section 10701), or any successor to that law.

3 11166. (a) On or before January 1 of the third year that
4 follows a year, or portion thereof, in which a tax is imposed
5 pursuant to this part, the Franchise Tax Board shall report to the
6 Controller and the auditor of the city and county both of the
7 following:

8 (1) The total amount of the revenue loss to the state for the
9 prior year resulting from deductions taken under the Personal
10 Income Tax Law (Part 10 (commencing with Section 17001))
11 and the Corporation Tax Law (Part 11 (commencing with Section
12 23001)) for taxes paid or incurred as a result of a tax being
13 imposed pursuant to this part.

14 (2) The total amount of costs incurred by the Franchise Tax
15 Board for determining and reporting the amount described in
16 paragraph (1).

17 (b) For each year that the Franchise Tax Board makes a report
18 as described in subdivision (a), the auditor of the city and county
19 shall, on or before June 30, reduce the vehicle license fee
20 adjustment amount, as defined in paragraph (1) of subdivision (c)
21 of Section 97.70, that is otherwise required to be allocated to the
22 city and county by the total of the amounts reported under
23 subdivision (a).

24 SEC. 2. The Legislature finds and declares that a special law
25 is necessary and that a general law cannot be made applicable
26 within the meaning of Section 16 of Article IV of the California
27 Constitution because of the unique fiscal hardship being
28 experienced in the City and County of San Francisco in
29 providing vital public services.